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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/872,764	06/01/2001	Jeffrey J. Grainger	021737-000110US	2173
20350 7590 10/17/2008 TOWNSEND AND TOWNSEND AND CREW, LLP TWO EMBARCADERO CENTER EIGHTH FLOOR SAN FRANCISCO, CA 94111-3834				
EXAMINER				
CHEUNG, MARY DA ZHI WANG				
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10/17/2008		PAPER		

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte JEFFRY J. GRAINGER, STEVEN K. BOYER,
and CECILY A. SNYDER

Application 09/872,764
Technology Center 3600

Mailed: October 17, 2008

Before KRISTA ZELE, *Deputy Chief Appeals Administrator*
ZELE, *Deputy Chief Appeals Administrator*.

ORDER RETURNING UNDOCKETED APPEAL

This application was electronically received at the Board of Patent Appeals and Interferences on July 14, 2008. A review of the application has revealed that the application is not ready for docketing as an appeal. Accordingly, the application is herewith being returned to the examiner. The matters requiring attention prior to docketing are identified below.

APPEAL BRIEF, CLAIMS APPENDIX

A review of the Appeal Brief filed September 28, 2007 reveals that claim(s) 1, 38, and 39 in the Claims appendix of the Appeal Brief are not in proper format and/or are not consistent as amended in the last entered amendment filed on September 27, 2007. The copy of the claims should be in proper format and should not include any markings such as brackets or underlining except for claims in a reissue application in accordance with 37 CFR § 41.37(c)(1)(viii). Furthermore, the Claims Appendix cannot assume entry of After Final Submissions for which an Advisory Action (or other Office communication) has not advised of entry. *See also Manual of Patent Examining Procedure* (MPEP) § 1205.02 (8th ed. Rev. 6, Sept 2007) for details.

Appropriate correction of all claims provided in the Claims Appendix in proper format is required.

Application No. 09/872,764

Accordingly, it is **ORDERED** that the application be returned to the Examiner for:

- 1) correction of the Claims Appendix of the Brief filed September 28, 2007;
- and 2) such further action as may be required.

If there are any questions pertaining to this Order, please contact the Board of Patent Appeals and Interferences at 571-272-9797.

KZ/tdl

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